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National Industrial
Conference Board

Petition to the
Committee on Finance...

[Boston]

[1917]

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Petition to the Committee on
Finance of the Senate of the
United States respecting War
Revenue Bill, H. R. 4280

National Industrial
Conference Board

July 23, 1917

National Industrial Conference Board

15 BEACON STREET, BOSTON, MASS.

THE National Industrial Conference Board is a co-operative body composed of representatives of national industrial associations, and organized to provide a clearing house of information, a forum for constructive discussion, and machinery for co-operative action on matters that vitally affect the industrial development of the country.

FREDERICK P. FISH	<i>Chairman</i>
CHARLES G. WASHBURN	<i>Treasurer</i>
MAGNUS W. ALEXANDER	<i>Executive Secretary</i>

MEMBERSHIP

AMERICAN COTTON MANUFACTURERS' ASSOCIATION
AMERICAN PAPER AND PULP ASSOCIATION
ELECTRICAL MANUFACTURERS' CLUB
MANUFACTURING CHEMISTS' ASSOCIATION OF THE U. S.
NATIONAL ASSOCIATION OF COTTON MANUFACTURERS
NATIONAL ASSOCIATION OF MANUFACTURERS
NATIONAL ASSOCIATION OF WOOL MANUFACTURERS
NATIONAL AUTOMOBILE CHAMBER OF COMMERCE
NATIONAL BOOT AND SHOE MANUFACTURERS' ASSOCIATION
NATIONAL COUNCIL FOR INDUSTRIAL DEFENSE
NATIONAL ERECTORS' ASSOCIATION
NATIONAL FOUNDERS' ASSOCIATION
NATIONAL METAL TRADES ASSOCIATION
RUBBER ASSOCIATION OF AMERICA, INC.
SILK ASSOCIATION OF AMERICA
UNITED TYPOTHETÆ AND FRANKLIN CLUBS OF AMERICA

To the Honorable

The Committee on Finance of the Senate of the United States:

Gentlemen: Your petitioner, the National Industrial Conference Board, is a co-operative body of representatives of national trade associations of manufacturers. It is constituted through the selection by each association of its President and one delegate to member, and comprehends substantially every type of industrial production.

The membership of the Board includes representatives of the following associations:

American Cotton Manufacturers' Association
American Paper and Pulp Association
Electrical Manufacturers' Club
Manufacturing Chemists' Association of the U. S.
National Association of Cotton Manufacturers
National Association of Manufacturers of the U. S. A.
National Association of Wool Manufacturers
National Automobile Chamber of Commerce
National Boot and Shoe Manufacturers' Association
National Council for Industrial Defense
National Erectors' Association
National Founders' Association
National Metal Trades Association
Rubber Association of America, Inc.
Silk Association of America
United Typothetæ and Franklin Clubs of America

The Board at this time especially desires to present for your consideration certain suggestions and objections respecting the pending War Revenue Bill, H. R. 4280.

The Board recognizes that your deliberations are necessarily dominated by the pressing necessity for vastly augmented revenue. But we believe it to be equally your desire to adopt a policy which will not only secure the current expenses of this

City of New York, N.Y. 200

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The Board recognizes that your deliberations are necessarily dominated by the pressing necessity for vastly augmented revenue. But we believe it to be equally your desire to adopt a policy which will not only secure the current expenses of this

year, but make for conditions assuring a permanent stream of revenue in, if anything, increasing volume. We realize that you must be the sole judges of the amount necessary to meet the requirements of national defense and of the rate of taxation which will secure it. We venture to hope that it is your desire to obtain a maximum of revenue with a minimum of injurious reaction upon the subjects of taxation. Your study of this vast and complicated problem has undoubtedly suggested to you that it is essential, not merely to secure the immediate requirements of war expenditure, but in doing so to select and announce permanent principles of war taxation which will enable industry to anticipate equal, if not greater, demands in the future, thus affording it reasonable opportunity to expand its operations in proportion to the public needs of ourselves and our Allies, and to prudently fortify itself each step of the way for the tasks of war, and likewise for the approaching commercial struggles of peace.

Impressed by these considerations, we have carefully examined the pending revenue measure reported by your Honorable Committee to the Senate of the United States, not in the light of its effect upon special or individual interests, but from the point of view of the obligation for public service now resting upon us and the necessity, which we believe you equally realize, of stimulating industry to the highest state of efficiency and maintaining its capacity to produce revenue in accordance with the national need.

Deeply appreciative of the complex and burdensome task confronting your Committee, we criticize no rate imposed, but confine our attention to two features of the proposed measure, believing that the elimination of the one and the modification of the other will secure an equal amount of revenue, while relieving industry of a most serious menace to the performance of its high public obligations and assuring a more flexible means of accommodating itself to the necessary burden of war.

We therefore respectfully urge:

1. The elimination of the so-called "Jones Amendment", beginning with line 24, page 107, to line 17, page 109, of H.R. 4280, as reported by your Honorable Committee to the Senate under date of July 3, 1917.

2. The modification of the pre-war standard proposed as the basis of ascertaining war excess profits in the manner herein set forth.

I

THE JONES AMENDMENT

The so-called "Jones Amendment" levies in substance an additional tax of 15% upon all net business income which, having paid all normal and war taxes otherwise provided, remains undistributed in the possession of every corporation, joint stock company, or association sixty days after the end of each calendar or fiscal year.

This additional tax is not proposed to apply to undistributed profits used to establish or maintain reserves required by law; or to such undistributed profits of railroads as, with the approval of the Federal or various State Commerce Commissions, are to be used for extensions, renewals or betterments; or to an amount of such profits equal to 20% of the net income of industrial, commercial or banking corporations when such amount is derived from their activities and while it is actually employed in the production or distribution of their commodities or in banking.

The avowed purpose of this proposed tax is to prevent an exercise of undue influence by large stockholders to cause an accumulation of surplus for ultimate distribution in dividends which would avoid present taxation in whole or part, to levy a supertax upon undistributed corporate income, and to substantially compel the distribution of the entire net earnings of business organizations.

Admitting the limited existence of the evil suggested by the first purpose, the remedy is far broader and more dangerous than the proportions of the ill it seeks to reach. Both the normal and the war excess profit tax operate in themselves as a heavy surtax on corporate income, for the proposed tax would in effect be not only a second corporate surtax, but, in part, a tax upon the amount of tax paid. Finally, if operating generally, as it must, to compel under a heavy penalty the distribution of substantially all net business income, it is economically unsound and will, we respectfully submit, be attended by the most disastrous consequences. For:

1. The creation of a necessary surplus, conditioned upon the needs and circumstances of each business, is essential to sound corporate financing at all times, but to a much greater degree it is vitally needed in the present crisis. The amount of such surplus is not a fixed quantity, but must necessarily vary with the differing conditions of each business organization. That which is ample for one may fall far short of the requirements of another.

2. Prudence suggests that each business able to do so should, under present conditions, provide special reserves to meet the demands of new construction and development required by the expanding and novel obligations for war production and accumulation of credits; to meet unprecedented cash payments of taxes; to anticipate continually increasing money rates and the contracting purchasing power of the corporate not less than the individual dollar; to make thoughtful provision for the commercial conditions of peace; and, finally, at every stage of present production to meet progressive demands for ever-rising wages equally essential to reward the highest efficiency and to maintain the traditional American standards assuring the social security of the worker.

The "Jones Amendment", while it would doubtless operate as a deterrent to the limited evil at which it is chiefly aimed, strikes directly at that corporate frugality and prudence which public admonition by the Executive enjoins, not less upon associated than upon individual effort. It will deliberately encourage and stimulate improvident dividend distribution, and penalize to a corresponding degree the wiser scale of moderate returns which alone give assurance of stable enterprise. We submit, that any public policy stimulating an excessive distribution of profits lessens the capacity of every soundly managed company to sustain its share values and make safe its capacity to finance readily undertakings vital to industry and essential to the successful conduct of war.

We respectfully submit to your Honorable Body that at no time in our history has there been greater occasion for legislative encouragement of that business prudence which this proposal would disastrously penalize. We therefore earnestly urge its elimination.

II

WAR EXCESS PROFIT TAX

The pending measure provides for the levy of a tax upon "war excess profits", to be determined for each business organization by the excess above its average earnings for the pre-war years, 1911, 1912 and 1913, with an optional substitution of 6% upon the capital actually invested.

Your Committee has, in our humble opinion, very properly rejected the arbitrary standard of "excess profit" fixed by the House Bill, which gave no due consideration in terms of actual experience to the varying risk and circumstance of each particular business; but we respectfully submit that the very greatly improved standard established by your Honorable Committee is too rigid to permit the customary and normal return of each individual business to express itself in terms of its own life. The necessity for a reasonable flexibility within the standard pre-war period selected is recognized in the legislation of every European country levying a like tax, by according to each taxpayer the privilege of eliminating one or more periods from those designated as the basis of return.

If reason and experience approve this standard abroad, how much more strongly is it urged by the varied circumstances of American industrial life! For in a country so vast as ours, comprehending within its borders many great communities differing greatly in physical and economic circumstances, local conditions operate at various times to produce in different degrees conditions which, while confined in their influence, are nevertheless often active over areas greater in territorial extent than any European nation whose war-taxing experience we possess. Each member of this Committee is sensible of the fact that drought, flood, industrial disturbances, and like causes have seriously affected industrial and commercial areas in one or two years out of substantially every five. Thus the great Ohio valley, a thriving industrial hive, suffered within the past three years a destructive flood which paralyzed its industry at a time when the rest of the nation enjoyed substantially normal prosperity. In terms of the knowledge and experience of every Senator, like conditions have operated during various periods to seriously affect large areas in the southern, south-

western, and western sections of our country. It is likewise equally obvious that the events of the past three years have so disarranged and revolutionized business in the United States as to necessitate the reorganization of material standards in comparing the business circumstances of the present with the conditions of the recent past.

In view of these considerations and the universal European practice, we urge that the taxpayer be permitted to eliminate one or two years from a selected pre-war period of five as a basis of calculating the average normal net return. This is readily accomplished by adding to the rigid pre-war standard proposed either the years 1914 and 1915, or the years 1909 and 1910.

We believe it to be the general experience of all business that the addition of one exceptionally unfavorable year, 1914, and one year of acceleration toward normal, 1915, would afford the fairest basis for the computation of normal average earnings. If, however, your Committee insists upon a European pre-war standard, the addition of the years 1909 and 1910, for which the Government possesses full income tax returns for purposes of comparison, would in our opinion afford a fairer standard than that proposed in the pending bill, but not one picturing normal American business with the accuracy assured by the inclusion of the years 1914 and 1915.

We therefore suggest to your Honorable Committee, as a substitute for the pre-war standard proposed, the following:

(a) That the pre-war standard be a five-year period from 1911 to 1915 inclusive.

(b) That the taxpayer be permitted to select as the basis of his return any three of such years, the average for the years thus selected to provide the base from which to compute the war excess profit tax. This would be in consonance with the British law, which permits the taxpayer to select two periods out of three.

(c) Add to the average normal income thus ascertained an amount sufficient to provide a like rate of income upon any new capital invested in the business prior to the taxable year, the rate allowed upon new capital to be that actually earned

upon the old capital actually employed during the three pre-war years selected by the taxpayer.

(d) Levy upon the amount of war excess profit for the taxable year thus shown a rate sufficient to produce the amount which in the judgment of your Committee must be provided from this source.

The plan proposed would permit those charged with the conduct of commercial enterprises to count with certainty upon a future income which will more nearly express the normal return of the business and will not be subject to unanticipated diminution by taxation. It is predicated upon no objection to any necessary rate which your Committee may impose, nor with any thought of merely enhancing profit; but with the sole idea of securing within reasonable limits an assured income unaffected by excess taxation upon which industrial enterprises may confidently rely to meet the heavy public obligations of war and prepare themselves for the world competition of peace.

This is the underlying purpose and operating plan of the British law, which, securing to the Government its needed revenue, nevertheless assures to industry and commerce every reasonable opportunity, within the limitations of war necessities, to anticipate and provide for the future, and without any contravening disadvantage to the Government. Industry is thus fortified as a producer of commodities and revenue. Your Committee is in possession of statistics of corporate income return and can, in terms of its own study, readily compare the position of any average American manufacturing corporation under this proposal with that of a like British corporation under its own War Excess Profit Tax Law.

Our inquiries have developed a considerable difference of opinion among manufacturers with respect to whether a flat or a graduated rate of war excess profit taxation is the fairer. We believe, however, that returns from the great majority of associations and individual manufacturers indicate their approval of the mode proposed by your Committee. We believe that the optional substitute of net earnings of 6% as a basis for war excess profit taxation presents a minimum, but, in view of the widely differing risks of various forms of enterprise

and the continuously rising money rates during war, we powerfully urge that a basis of 9% would afford necessary security, while any effect upon revenue calculations may be met by a proportionately increased rate. This recommendation is strongly supported by the experience of Great Britain, the British Chancellor of the Exchequer declaring to the Parliament May 2, 1917, that the interests of the nation required that the minimum net returns should be fixed at 9% for corporations and 11% for partnerships.

We are keenly conscious of the arduous labors of your Committee, and we have ventured upon these suggestions and criticisms with a profound sense of our public obligation in this crisis, motivated only by a desire to guarantee the pecuniary needs of the Government while securing to industry that measure of safety and opportunity for future provision without which it cannot successfully meet the high and continuing duties of this critical hour.

Respectfully submitted,

NATIONAL INDUSTRIAL CONFERENCE BOARD,

<i>Executive Committee</i>	{	<i>Loyall A. Osborne, Chairman,</i>
		<i>Frederick P. Fish,</i>
		<i>William H. Barr,</i>
		<i>Charles Cheney,</i>
		<i>E. Lawrence Fell,</i>
		<i>Magnus W. Alexander, Executive Secretary.</i>

BOSTON, MASS., July 23, 1917.

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